

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

In re:)
)
RODNEY ALLEN PINCKNEY,) Chapter 13
)
Debtor.) Case No. 19-30430
)

**MOTION OF MARLENE JONES TO CONVERT THIS CHAPTER 13 CASE TO A
CHAPTER 7 CASE OR IN THE ALTERNATIVE TO DISMISS AND FOR OTHER
APPROPRIATE RELIEF**

Marlene Jones (“Jones”) moves the Court for an Order converting this case to a case under Chapter 7, or in the alternative to dismiss this case, pursuant to 11 U.S.C. §1307 and for other appropriate relief and respectfully shows the Court the following in support thereof:

1. On April 1, 2019 (the “Petition Date”), Rodney Allen Pinckney (the “Debtor”) filed a petition under Chapter 13 of the United States Bankruptcy Code.
2. As of the Petition Date, Jones held a judgment lien in the amount of \$51,120.76 on all real property owned by the Debtor and is a party in interest to this bankruptcy proceeding.
3. This Court has jurisdiction over these matters pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157(b)(2).
4. On May 8, 2019, Jones filed the Objection of Marlene Jones to Confirmation of Debtor’s Chapter 13 Plan on May 1, 2019 (the “Objection”). The allegations of the Objection and the documents attached thereto are incorporated herein by reference.
5. On June 13, 2019, this Court entered an Order sustaining the Objection.
6. On June 19, 2019 the Debtor filed an Amendment to Chapter 13 Plan.
7. Contemporaneously with the filing of this Motion, Jones has filed an Objection of Marlene Jones to Confirmation of Debtor’s Chapter 13 Plan as amended by the Amendment to

Chapter 13 Plan and Request for Hearing (the “Objection No. 2”). The allegations of Objection No. 2 and the documents attached thereto are incorporated herein by reference.

8. Based upon the proof of claims filed in this case, the Debtor has failed to pay the real property taxes owed on the real property owned by the Debtor.

9. 11 U.S.C. § 1307 provides, in pertinent parts, as follows:

(c) Except as provided in subsection (f) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including —

(1) unreasonable delay by the debtor that is prejudicial to creditors;

...

(3) failure to file a plan timely under section 1321 of this title;

(4) failure to commence making timely payments under section 1326 of this title;

(5) denial of confirmation of a plan under section 1325 of this title and denial of a request made for additional time for filing another plan or a modification of a plan;

10. This case should be converted or dismissed for the following reasons:

(a) Confirmation of the original plan was denied;

(b) The Plan as modified is not confirmable;

(c) The Debtor has failed to make the required Plan payments to the Trustee;

(d) The Debtor has failed to pay real property taxes on the real property owned by the Debtor;

(e) For the reasons stated in the Objection and in Objection No. 2, the Plan proposed by the Debtor was not proposed in good faith as required under 11 U.S.C. § 1325(a)(3);

- (f) The Debtor will be unable to make the payments required under the plan filed by the Debtor;
- (g) The petition was not filed in good faith;
- (h) The Debtor has failed to comply with the provisions of Chapter 13 and the applicable provisions of Title 11; and
- (i) Such other reasons as may appear at the hearing.

WHEREFORE, Jones respectfully requests that the Court:

1. Convert this case to a case under Chapter 7 pursuant to the provisions of 11 U.S.C. § 1307;
2. In the alternative, that the Court dismiss this case; and
3. That the Court grant Jones such additional relief as she may be entitled to under the facts and the applicable law.

This 20th day of June, 2019.

/s/Robert H. Pryor
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **MOTION OF MARLENE JONES TO CONVERT THIS CHAPTER 13 CASE TO CHAPTER 7 CASE OR IN THE ALTERNATIVE TO DISMISS AND FOR OTHER APPROPRIATE RELIEF** has been served electronically or by mailing a copy thereof, first class U.S. mail, postage prepaid to the following:

Ford Motor Credit PO Box 542000 Omaha, NE 68154-8000	Ford Motor Credit Company PO Box 62180 Colorado Springs CO 80962-2180	Charlotte Division 401 West Trade Street Charlotte, NC 28202-1633
Marlene Jones 8418 Galena View Drive Charlotte, NC 28269-7178	First Citizens Bank 1024 Alleghany St Charlotte, NC 28208-3890	First Citizens Bank Trust Company P O Box 25187 Raleigh NC 27611-5187
North Carolina Department of Revenue Bankruptcy Unit P.O. Box 1168 Raleigh, NC 27602-1168	Office of the Tax Collector Mecklenburg County Tax Collector P.O. Box 31637 Charlotte, NC 28231-1637	Mecklenburg County Tax Collector PO Box 71063 Charlotte, NC 28272-1063
Rodney Allen Pinckney 8525 Hammonds Street Charlotte, NC 28214-1436	Gaston Radiology PO Box 603498 Charlotte, NC 28260-3498	Presbyterian Pathology Group PO Box 4370 Florence, SC 29502-4370
Portfolio Recovery Associates LLC PO Box 41067 Norfolk VA 23541-1067	Warren L. Tadlock 5970 Fairview Road Suite 650 Charlotte, NC 28210-2100	Novant Health PO Box 1123 Minneapolis, MN 55440-1123
Synchrony Bank c/o PRA Receivables Management, LLC PO Box 41021 Norfolk, VA 23541	Jeanne Ann Pennebaker Bochicchio & Pennebaker, PLLC 10130 Perimeter Parkway Suite 200 Charlotte, NC 28216-0197	Mecklenburg Radiology Associates PO Box 221249 Charlotte, NC 28222-1249
Internal Revenue Service P.O. Box 7317 Philadelphia, PA 19101-7317		

This 20th day of June, 2019.

/s/Robert H. Pryor

Robert H. Pryor